

Remarks and Arguments

Claims 29-67 were pending in the application. Claims 29, 38 and 39 have been amended. Claims 29-67 remain for examination.

Examiner Interview Summary and Advisory Action

On March 2, 2007, the Examiner mailed an Advisory Action and Interview Summary regarding the telephone conference with Applicant's attorney on February 26, 2007. Applicant is in substantial agreement with the description of that interview set forth in the Examiner's Summary. The Examiner also cited two new references to Cox and Kiba.

Applicant had previously submitted an amendment after final action on January 23, 2007, which was not entered on the grounds it raised new issues. On February 26, 2007, Applicant filed a Notice of Appeal.

Applicant now submits a preliminary amendment to address both the final office action and the points raised in the Advisory Action and Interview Summary.

Applicant submits herewith a copy of an exhibit presented at a December 5, 2006 telephone interview and referenced in the Examiner's December 5, 2006 Interview Summary. Applicant is in substantial agreement with the description set forth in the Examiner's Summary.

Applicant has amended claim 29 to insert "formation of" in front of the word "osteodentin" in claim 29, as discussed at the December 5, 2006 interview.

Applicant has amended claim 29 to insert "comprising enamel matrix proteins or parts of such proteins" (after "active enamel substance").

Applicant has amended claims 38 and 39 to delete "non-amelogenins" and "proline-rich non-amelogenins" and "and derivatives thereof."

Applicant respectfully submits that these amendments address the Examiner's comments and are fully supported by the specification. Applicant believes the present claims distinguish from the cited references for the reasons set forth below.

In the final office action, claims 29-67 were rejected under 35 U.S.C. § 102(e) as being anticipated by Cerny et al. U.S. Patent 6,300,062. The Examiner made certain assumptions about Cerny's described method of repairing a lesion in a tooth.

At the December 5, 2006 interview, there was extensive discussion about Cerny et al. The Examiner was directed to an Internet site provided by Applicant (<http://en.wikipedia.org/wiki/Image:ToothSection.jpg> (copy enclosed)) where one can clearly see how deeply the pulp is hidden inside the tooth, which supports Applicant's distinction over Cerny et al. The Examiner's summary of the following discussion was substantially accurate and complete in stating:

“Applicants describe how Cerny et al. is distinguished from the pending claims because the reference does not disclose the exposure of vital dental pulp as is currently claimed in claim 29;”

Applicants “used the exhibit image to describe the depth of vital dental pulp;”

“Applicants cite col. 15, line 37 onwards of U.S. Patent '062 to support the position that Cerny et al. does not contemplate exposure of vital dental pulp tissue” and “that [Cerney's] mineralization is distinguished from [Applicant's claimed] regeneration of secondary dentin or formation of reparative dentin or formation of osteodentin.”

The Examiner then agreed to consider the submission of a Declaration from the Cerny et al. inventors (same Assignee) that would state that the Cerny et al. patent “is not directed to promoting regeneration of secondary dentin or formation of reparative dentin or formation of osteodentin in a mammal.” (Examiner's Interview Summary Record, page 3).

Applicant submits herewith a Declaration by Dr. Ivan Slaby, the second named inventor of the Cerny et al. patent. The Declaration includes a description of Dr. Slaby's background, and a discussion of the Cerny et al. patent disclosure consistent with the above-noted distinctions from the Interview Summary Record. Based on this evidence, Applicant respectfully submits that the Cerny et al. patent fails to teach or suggest the subject matter of Applicant's amended independent claim 29.

The Examiner objected to the use of the term “derivatives.” Applicant has canceled this term from claims 38 and 39. While Applicant continues to assert that the

meaning of the term derivatives is clear from the specification, Applicant has amended the claims to expedite prosecution.

Independent claim 29 now recites "enamel matrix proteins or parts of such proteins," as the active enamel substance. Support for this amendment is found in paragraphs 0092-0114, and more specifically beginning at paragraph 0095.

In regard to the recently cited Cox and Kiba references, the Examiner relies on their teaching of an inorganic enamel matrix material such as calcium hydroxide. These materials are not included in the presently amended claims.

Reconsideration and allowance is respectfully requested.

Information Disclosure Statement

Applicant submits herewith an Information Disclosure Statement with the correct page 150-196 of the A.R. Ten Cate reference.

RECONSIDERATION

It is believed that all claims of the present application are now in condition for allowance.

Reconsideration of this application is respectfully requested. If the Examiner believes that a teleconference would expedite prosecution of the present application the Examiner is invited to call the Applicant's undersigned attorney at the Examiner's earliest convenience.

Any amendments or cancellation or submissions with respect to the claims herein is made without prejudice and is not an admission that said canceled or amended or otherwise affected subject matter is not patentable. Applicant reserves the right to pursue canceled or amended subject matter in one or more continuation, divisional or continuation-in-part applications.

To the extent that Applicant has not addressed one or more assertions of the Examiner because the foregoing response is sufficient, this is not an admission by Applicant as to the accuracy of such assertions.

Please grant any extensions of time required to enter this response and charge any fees in addition to fees submitted herewith that may be required to enter/allow this response and any accompanying papers to our deposit account 02-3038 and credit any overpayments thereto.

Respectfully submitted



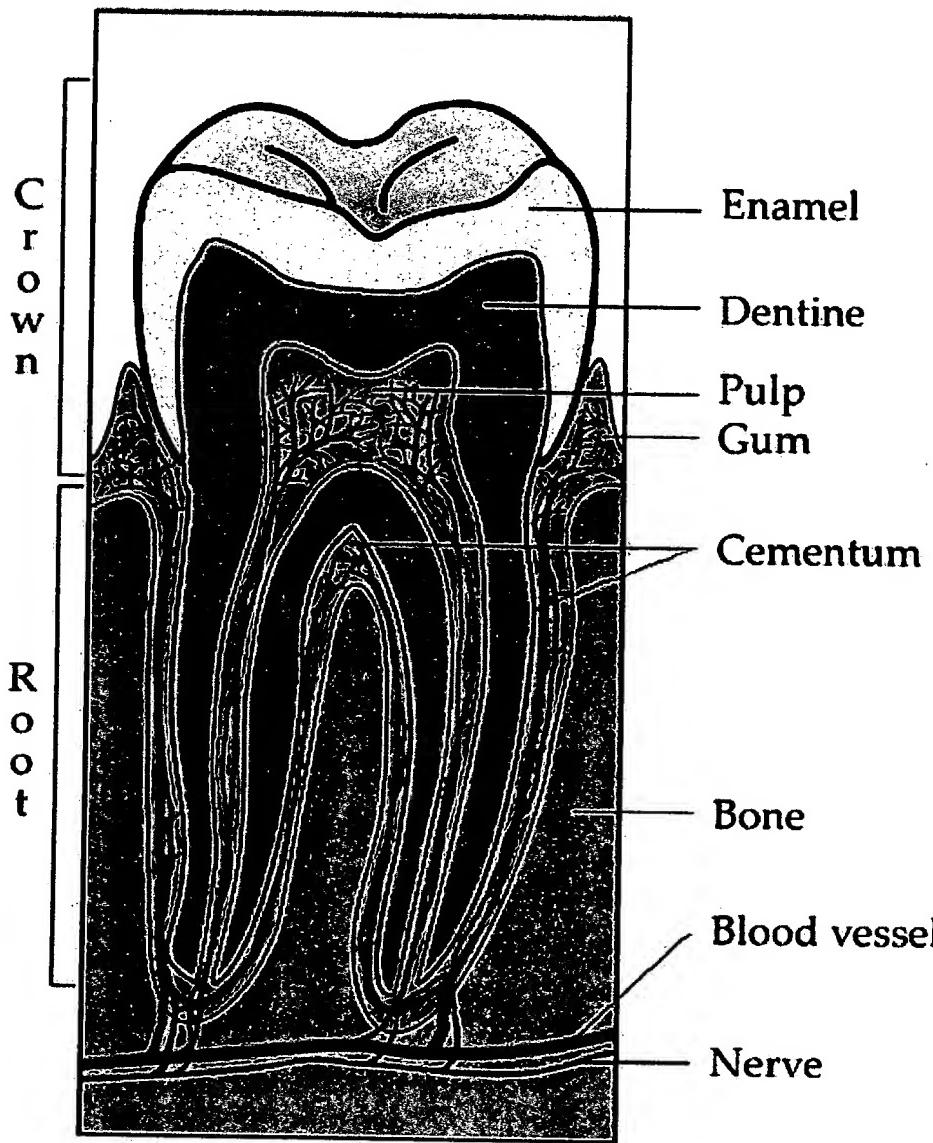
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Cross section showing parts of tooth.

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Please direct any questions to User talk:Asbestos. (Sam Fentress (<http://people.bu.edu/samf/>))



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